

Cancel Claim 14.

16. (Amended) A kit for use in an analyte detection assay, said kit comprising:
- (a) an array of distinct tag complements immobilized on the surface of a solid support;
 - (b) a set of distinct tagged affinity ligands, wherein each member of said set comprises a tag that hybridizes to a tag complement of said array; and
 - (c) means for identifying the physical location on said array to which each distinct tagged affinity ligand of said set hybridizes.

Cancel Claim 17.

22. (Amended) An array of distinct tag complements immobilized on a solid support, wherein said tag complements are members of a collection of tag-tag complement pairs in which the magnitude of any difference in hybridization efficiency between any two tag-tag complements pairs in said collection does not exceed about 10 fold and at least one of said tag complements of said array is hybridized to a tagged affinity ligand.

Cancel Claim 23.

Cancel Claim 25.

Cancel Claim 26.

Cancel Claim 27.

REMARKS

In view of the above amendments and the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1, 4-10, 12-13, 15-16, 18-22 and 24, the only claims pending and currently under examination in this application following entry of the above amendments.

The Examiner is thanked for the courteous and helpful interview which was held on March 27, 2002. During the interview, the above amendments were discussed in view of the 112 and 102/103 rejections raised in the office action, and agreement was reached that the above amendments would overcome all of the rejections and place the application in form for allowance.

The method claims were amended to further clarify the claimed invention, primarily by clarifying the claim language and/or incorporating dependent claims into the independent

claims from which they depend and correspondingly canceling the incorporated dependent claims. In addition, the kit claim was amended to clarify that the tags on the set of tagged affinity ligands are complementary to the tag complements of the array. Finally, the array claim was amended to specify that at least one of the tag complements is hybridized to a tagged affinity ligand. The attached marked up version is captioned, **"Version With Markings To Show Changes Made."** As the above amendments find support in the specification, they introduce no new matter and their entry by the Examiner is respectfully requested.

Claims 1-27 were first rejected under 35 U.S.C. § 112, 2nd ¶ for a number of issues. It is believed that the above amendments address each of the issues raised by the Examiner. Specifically, issues (a) -(d)-have been addressed by incorporating Claim 2 into Claim 1 and correspondingly canceling Claim 2. Issue (e) has been addressed by the cancellation of Claim 3. Issue (f) has been addressed by the cancellation of Claim 11. Issue (g) has been addressed by the amendment to Claim 1. Issue (h) has been addressed by the cancellation of Claim 14. Issue (i) has been addressed by the amendment to this claim. Issue (j) has been addressed by cancellation of Claim 23. Finally, issue (k) has been addressed by the cancellation of Claim 25. Accordingly, the above amendments address each of the issues raised by the Examiner under this rejection such that this rejection may be withdrawn.

Claims 1-2, 10, 11 and 13-17 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Burmer.

As agreed by the Examiner and Applicant in the above summarized interview, Burmer fails to disclose the claimed invention. Burmer's method, as described and illustrated in Figure 1, requires the use of oligo tagged ligands where the oligo serves as the label. As such, the tag of Burmer's tagged ligands cannot serve as a means to tether the ligand to the surface of a support, but instead must be free from the support once the ligand is bound to its binding member on the support.

In contrast, in the claimed methods the tag serves to tether the tagged affinity ligand to array of tag complements, i.e., to the solid support. As such, the claimed methods are "opposite" of Burmer's method and therefore Burmer does not anticipate the claimed methods.

Because Burmer fails to disclose the claimed invention, the rejection of Claims 1-2, 10, 11 and 13-17 under 35 U.S.C. § 102(e) as being anticipated by Burmer may be withdrawn.

Claims 4-9 and 12 have been rejected under 35 U.S.C. § 103(a) over Burmer in view of Lockhart and Shannon. As explained above, Burmer fails to teach the basic method as claimed. Furthermore, because Burmer teaches that the tag of the tagged ligand must be available for use as a label, he fails to suggest the claimed methods in which the tag is employed to tether the tagged ligand to a support, such that the tag cannot be available as a label. The supplemental references have been cited solely for the hybridization efficiency limitation, these references fail to make up the fundamental deficiency in Burmer. As such, Claims 4-9 and 12 are not obvious under 35 U.S.C. § 103(a) over Burmer in view of Lockhart and Shannon and this rejection may be withdrawn.

Finally, Claims 18-27 have been rejected under 35 U.S.C. § 103(a) over Burmer in view of Lockhart and Shannon, and further in view of Brown. As explained above, Burmer fails to teach the basic method as claimed. Furthermore, because Burmer teaches that the tag of the tagged ligand must be available for use as a label, he fails to suggest the claimed methods in which the tag is employed to tether the tagged ligand to a support, such that the tag cannot be available as a label. The supplemental references have been cited solely for the additional elements of the claim, e.g., hybridization efficiency limitation. As such, these references fail to make up the fundamental deficiency in Burmer. Accordingly, Claims 18-27 are not obvious under 35 U.S.C. § 103(a) over Burmer in view of Lockhart, Shannon and Brown, and this rejection may be withdrawn.

Finally, with respect to the priority claim of the present application, the Applicants do not acquiesce with the Examiner's characterization but do not address the issue further since the first priority date is not necessary to overcome the cited prior art references. Nonetheless, the Applicants reserve the right to claim the fully priority date for present claims, should the Applicants desire to claim such priority at a future date.

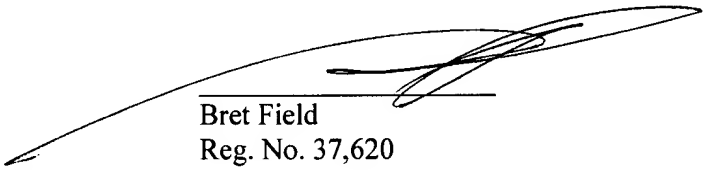
In view of the above amendments and remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issue.

If, in the opinion of the Examiner, a telephonic interview would expedite prosecution of this application, the Examiner is invited to contact the undersigned at (650) 833-7770.

If the Patent Office determines that fees, including extensions of time, are required, the Applicants hereby petition for any required relief, including extensions of time, and authorize the Commissioner to charge the cost of such to our Deposit Account No. 50-0815, Order No. CLON-017US2.

Respectfully Submitted,

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